IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

FRIDAY, THE FOURTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT APPEAL NO :441 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 8-2-2005 in WP NO : 1948 of 2005 on the file of the High Court.)

Between:

K.Yerri Swamy, S/o K.Devaraj,

Coolie, White Card Holder, R/o Rampuram village, Kambadur Mandal, Anantapur District.

APPELLANT

And

1. Sri C.Krishna Chowdary, S/o Venkataswamy, R/o Rampuram Village, Kambadur Mandal, Dharmavaram Division, Ananthapur District.

RESPONDENT/WRIT PETITIONER

2. The Joint collector, Ananthapur District, Ananthapur.
3. The Revenue Divisional Officer, Dharmavaram Division, Ananthapur.
4. The Mandal Revenue Officer, Kambadur Mandal, Ananthapur District.

RESPONDENTS/RESPONDENTS

Counsel for the Appellant: Mr.S.D.Goud.

Counsel for the Respondent No.1: Mr.M.Prasada Rao

Counsel for the Respondents 2 to 4: Govt. Pleader for Civil Supplies.

The court at the admission stage made the following:

ORAL ORDER: (per the Hon'ble the Chief Justice)

Appellant is a card-holder of a fair price shop and is questioning the order passed by the learned single Judge suspending the order of suspension passed on 17-1-2005 by the Revenue Divisional Officer pending enquiry against the first respondent on three charges, which concern with violation of the A.P. State Public Distribution System Control Order, 2001 (for short "the Control Order"). The first respondent was asked to submit his reply to the show cause notice and pending enquiry, considering the seriousness of the nature of the charges, the dealership of the first respondent was suspended, against which an appeal was preferred before the Joint Collector, which is still pending. During the pendency of the appeal, first respondent had also applied for suspending the order of suspension, which was not granted. Feeling aggrieved, this court was approached by way of writ petition. Learned single Judge by order passed on 8-2-2005 set aside the order of suspension on the ground that, prima facie, charges levelled against the first respondent are not so serious as to warrant an action before any explanation is called for from him. He observed that the allegations are general and vague in nature and that there was no allegation that the first respondent had diverted the essential commodities to black market. Thus writ petition was disposed of and the order of suspension was stayed till the disposal of the statutory appeal.

Learned single Judge fell in error in interfering with the order of suspension

on the grounds stated by him. Nowhere it is provided in the Control Order that suspension of the dealership can only be in the event of the dealer diverting the essential commodities to black market. The Control Order does not specify the grounds on which order of suspension pending enquiry can be passed. Depending upon the nature of the charges and allegations made against the dealer that power to suspend the dealership pending enquiry can be exercised and there is no manner of doubt that once an enquiry is initiated, it has to be expeditiously dealt with. Against the order of suspension, remedy of statutory appeal is available under the Control Order, which has been availed of by the first respondent and there is nothing in the Control Order that the moment appeal is filed, the appellate authority must also suspend the order of suspension. Granting of such relief in the writ petition would amount to almost allowing the appeal, which is only impermissible. Suspension of an order of suspension can only take place in the event of the appellate authority coming to the conclusion that the order of suspension of dealership is bad in law. Till such an order is set aside, there cannot be suspension of an order of suspension. The view taken by the learned single Judge is contrary to the view which has consistently been taken by the earlier Division Benches of this court and we fail to understand how, ignoring such binding precedents, such an order could be passed.

Appeal accordingly is allowed. The impugned order is set aside and the writ petition is dismissed.

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DEVINDER GUPTA, CJ

4-3-2005

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B.SESHASAYANA REDDY, J

Tvr

Note: L.R. Copy to be marked.

To

1. One fair copy to the Honourable Sri Devinder Gupta, the Chief Justice, for his Lordship's kind perusal.

2. One fair copy to the Honourable Sri Justice B.Seshasayana Reddy, for his Lordship's kind perusal.

3. The Joint Collector, Ananthapur District, Ananthapur.

4. The Revenue Divisional Officer, Dharmavaram Division, Ananthapur.

5. The Mandal Revenue Officer, Kambadur Mandal, Ananthapur District.

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